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10 UNITED STATES OF AMERICA
11 NATIONAL LABOR RELATIONS BOARD
12 REGION 21

13 SERVICE EMPLOYEES INTERNATIONAL
14 UNION, LOCAL 721,

15 Charging Party/Union,

16 and

17 CHILDREN'S LAW CENTER OF LOS
18 ANGELES,

19 Respondent/Employer.

Case No. 21-CA-165280

**REQUEST FOR SPECIAL
PERMISSION TO APPEAL AND
APPEAL OF ALJ'S RULING
APPROVING SETTLEMENT
AGREEMENT**

20 **I. INTRODUCTION**

21 Pursuant to Section 102.26 of the Board's Rules and Regulations, the Charging Party
22 Service Employees International Union, Local 721 ("Union") hereby submits this Request for
23 Special Permission to Appeal and also concurrently submits its Appeal of the Administrative Law
24 Judge's ruling approving the settlement agreement between the Children's Law Center of Los
25 Angeles ("Employer") and the Counsel for the General Counsel ("CGC"). The request for special
26 appeal should be granted because the Settlement Agreement terminates this case, and the Union is
27 without any further appeal rights other than this appeal brought under Section 102.26 of the
28 Board's Rules and Regulations.

1 This matter was set for hearing on August 8, 2016 in Region 21 before Administrative
2 Law Judge (“ALJ”) Jeffrey D. Wedekind. As alleged in the Complaint, the case concerns the
3 Employer’s repeated and consistent refusal to provide relevant and necessary information to the
4 Union. The Union’s information requests were made in relation to a grievance it had filed
5 alleging a violation of a wage parity provision of the contract tied to non-unit attorneys employed
6 by the Employer, as well as bargaining under a wage-reopener provision of the parties’ 2014-
7 2016 collective bargaining agreement. After the record was opened and the parties had concluded
8 their opening statements, the parties engaged in settlement discussions that consumed the entire
9 day of hearing. Ultimately, the ALJ approved a Settlement Agreement between the Employer
10 and the CGC. (**Exhibit 1.**)¹ The Settlement Agreement obligates the Employer to provide the
11 Union with the information it requested (as detailed in the Complaint), subject to a
12 Confidentiality Agreement. In relevant part, Paragraph 3 of the Confidentiality Agreement states
13 that “[a]ny individualized salary information provided shall not be disseminated or publicized in
14 any way to any nonbargaining unit persons, entity, group or other SEIU-represented bargaining
15 unit or employer except as necessary to be disclosed in a grievance/arbitration proceeding,
16 bargaining or NLRB proceeding.”

17 The Union did not join the Settlement Agreement because the Confidentiality Agreement
18 restricts the Section 7 rights of the Union and the employees it represents. Namely, the
19 Confidentiality Agreement prohibits the Union from sharing responsive information with non-
20 bargaining unit employees covered under the Act as well as government agencies and officials.
21 In short, this confidentiality clause unlawfully restricts the Union’s right to seek assistance from
22 non-bargaining unit employees and government agencies and officials in resolving the Union’s
23 grievance against the employer in addition to any other matter affecting wages, hours, and terms
24 and conditions that is revealed in the responsive information.

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27 ¹ The Settlement Agreement was made part of the hearing record by Order of the ALJ on August
28 9, 2016.

II. ARGUMENT

A. **THE CONFIDENTIALITY AGREEMENT UNLAWFULLY RESTRICTS THE UNION AND REPRESENTED EMPLOYEES FROM APPEALING TO OTHER EMPLOYEES FOR ASSISTANCE**

The Union² and represented employees have a Section 7 right to seek assistance from other employees for the purposes of mutual aid or protection. *Foamex*, 315 NLRB 858 (1994). The Confidentiality Agreement, however, explicitly forbids the Union from disclosing “individualized salary information” to non-bargaining unit employees. The Union has a Section 7 right to disclose such information to non-bargaining unit employees for the purpose of seeking assistance from other employees. The Union is confident that such “individualized salary information” will establish a violation of the parties’ collective bargaining agreement (and the Parity Clause in particular). The Union should be able to fully exercise its Section 7 right to communicate any supporting evidence of its grievance to any employee as defined in the Act. Evidence of the Employer’s violation of the collective bargaining agreement renders it more likely that employees would assist³ the Union in its dispute with the Employer, as it lends credibility to the Union’s grievance.

B. **THE CONFIDENTIALITY AGREEMENT UNLAWFULLY RESTRICTS THE UNION AND REPRESENTED EMPLOYEES FROM APPEALING TO GOVERNMENT AGENCIES AND OFFICIALS FOR ASSISTANCE**

Section 7 protects the right of employees to advance their interests as employees “through channels outside the immediate employee-employer relationship.” (*Eastex, Inc. v. N.L.R.B.*, 437 U.S. 556, 565 (1978).) Such channels include, but are not limited to, “administrative and judicial forums” and legislative bodies. (*Id.*, at 566.) Thus, employees have a Section 7 right to protect and advance their interests through government bodies and elected officials.

The Confidentiality Agreement directly impinges on the right of the Union⁴ and represented employees from appealing to government bodies. Specifically, the Confidentiality

² Unions possess Section 7 rights. *BE & K Const. Co.*, 329 NLRB 717 (1999); *Brad Snodgrass, Inc.*, 338 NLRB 917, 923 (2003).

³ Such forms of protected concerted activity could include, but are not limited to, informational picketing, demonstrations and rallies, and petitions concerning the grievance.

⁴ Unions also possess Section 7 rights. *BE & K Const. Co.*, 329 NLRB 717 (1999); *Brad Snodgrass, Inc.*, 338 NLRB 917, 923 (2003).

1 Agreement prohibits the disclosure of "individualized salary information" to administrative,
2 judicial, and legislative bodies except the NLRB. As presently written, the Confidentiality
3 Agreement would prohibit the Union from disclosing "individualized salary information" to the
4 Equal Employment Opportunity Commission ("EEOC") or state equivalent (in this case, the
5 Department of Fair Employment and Housing) should the individualized salary information
6 indicate a disparity in pay based on a protected characteristic. The Confidentiality Agreement
7 would also apparently prohibit the Union from disclosing "individualized salary information" to
8 the EEOC in support of a Complaint filed by an individual employee or group of employees.
9 Moreover, the Confidentiality Agreement forbids the Union and represented employees from
10 showing "individualized salary information" to the Judicial Council, the state governmental
11 agency which funds the Employer in large part. The Union and represented employees are also
12 prohibited from disclosing "individualized salary information" to elected officials. All of the
13 aforementioned government bodies and officials are avenues by which the Union and represented
14 employees could pursue the interests of represented employees. There is simply not an overriding
15 Employer interest that justifies the severe restrictions imposed by the Confidentiality Agreement.

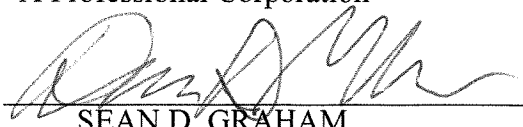
16 **III. CONCLUSION**

17 For the above-stated reasons, the Union respectfully requests that the Board grant this
18 Request for Special Permission to Appeal and furthermore grant the Union's appeal of the ALJ's
19 approval of the Settlement Agreement between the Employer and the Counsel for the General
20 Counsel.

21
22 Dated: August 15, 2016

WEINBERG, ROGER & ROSENFELD
A Professional Corporation

23
24
25 By:


SEAN D. GRAHAM

Attorneys for Charging Party/Union

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EXHIBIT 1

**UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
SETTLEMENT AGREEMENT
APPROVED BY AN ADMINISTRATIVE LAW JUDGE**

IN THE MATTER OF

CHILDREN'S LAW CENTER OF LOS ANGELES

Case 21-CA-165280

The undersigned Charged Party and undersigned Charging Party, and Counsel for the General Counsel, in settlement of the above matter and subject to the approval of an Administrative Law Judge for the National Labor Relations Board, **HEREBY AGREE TO SETTLE THE ABOVE MATTER AS FOLLOWS:**

POSTING OF NOTICE — Upon approval of this Agreement and receipt of the Notices from the Region, the Charged Party will post immediately in the break room at the Charged Party's facilities located at 901 Corporate Center Drive, Monterey Park, CA 91754 and 201 Centre Plaza Drive, Monterey Park, CA 91754 and on the bulletin board at the facility located at 1040 West Avenue J, Lancaster, CA 92534. The Charged Party will keep all Notices posted for 60 consecutive days after the initial posting.

E-MAILING NOTICE – The Charged Party will email a copy of the signed Notice in English via its employee email distribution lists, to all bargaining unit employees who work at the facilities located at: 901 Corporate Center Drive, Monterey Park, CA 91754; 201 Centre Plaza Drive, Monterey Park, CA 91754; and 1040 West Avenue J, Lancaster, CA 92534. The message of the e-mail transmitted with the Notice will state: "We are distributing the Attached Notice to Employees to you pursuant to a Settlement Agreement approved by an administrative law judge of the National Labor Relations Board in Case 21-CA-165280." Respondent will forward a copy of that e-mail, with all of the recipients' e-mail addresses, to the Region's Compliance Officer at sylvia.meza@nlrb.gov.

COMPLIANCE WITH NOTICE — The Charged Party will comply with all the terms and provisions of said Notice.

SCOPE OF THE AGREEMENT — This Agreement settles only the allegations in the above-captioned case, as set forth in the attached Notice to Employees, and does not settle any other case(s) or matters. It does not prevent persons from filing charges, the General Counsel from prosecuting complaints, or the Board and the courts from finding violations with respect to matters that happened before this Agreement was approved regardless of whether General Counsel knew of those matters or could have easily found them out. The General Counsel reserves the right to use the evidence obtained in the investigation and prosecution of the above-captioned case for any relevant purpose in the litigation of this or any other case(s), and a judge, the Board and the courts may make findings of fact and/or conclusions of law with respect to that evidence.

APPROVAL OF UNILATERAL SETTLEMENT AGREEMENT—In the event the Charging Party, or Counsel for the General Counsel fails or refuses to become a party to this Agreement, and if in the Administrative Law Judge's discretion it will effectuate the policies of the National Labor Relations Act, the

Administrative Law Judge, after providing such party an opportunity to state on the record or in writing its reasons for opposing the Agreement, may approve the Agreement. Any party aggrieved by the ruling of the Administrative Law Judge approving the Agreement may ask for leave to appeal to the Board as provided in Section 102.26 of the Board's Rules and Regulations.

AUTHORIZATION TO PROVIDE COMPLIANCE INFORMATION AND NOTICES DIRECTLY TO CHARGED PARTY — Counsel for the Charged Party authorizes the Regional Office to forward the cover letter describing the general expectations and instructions to achieve compliance, a conformed settlement, original notices and a certification of posting directly to the Charged Party. If such authorization is granted, Counsel will be simultaneously served with a courtesy copy of these documents.

Yes _____

Initials

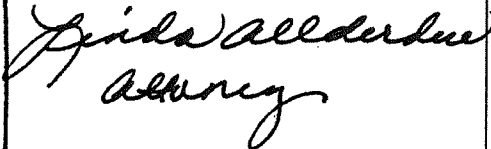
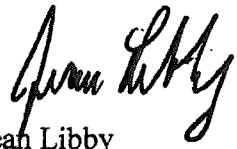

No  _____

Initials

PERFORMANCE — Performance by the Charged Party with the terms and provisions of this Agreement shall commence immediately after the Agreement is approved by the Administrative Law Judge, or if the Charging Party or Counsel for the General Counsel does not enter into this Agreement, performance shall commence immediately upon receipt by the Charged Party of notice that no review has been requested or that the Board has sustained the Administrative Law Judge. The Agreement shall be remanded by the Administrative Law Judge to the Regional Director for securing compliance with its terms.

The Charged Party agrees that in case of non-compliance with any of the terms of this Settlement Agreement by the Charged Party, and after 14 days notice from the Regional Director of the National Labor Relations Board of such non-compliance without remedy by the Charged Party, the Regional Director will reissue the complaint previously issued on April 25, 2016 and Amendment to Complaint issued on July 20, 2016 in the instant case. Thereafter, the General Counsel may file a motion for default judgment with the Board on the allegations of the complaint and amendment to complaint. The Charged Party understands and agrees that the allegations of the aforementioned complaint and amendment to complaint will be deemed admitted and its Answers to such complaint and amendment to complaint will be considered withdrawn. The only issue that may be raised before the Board is whether the Charged Party defaulted on the terms of this Settlement Agreement. The Board may then, without necessity of trial or any other proceeding, find all allegations of the complaint and amendment to complaint to be true and make findings of fact and conclusions of law consistent with those allegations adverse to the Charged Party on all issues raised by the pleadings. The Board may then issue an order providing a full remedy for the violations found as is appropriate to remedy such violations. The parties further agree that a U.S. Court of Appeals Judgment may be entered enforcing the Board order ex parte, after service or attempted service upon Charged Party/Respondent at the last address provided to the General Counsel.

NOTIFICATION OF COMPLIANCE — The undersigned parties to this Agreement will each notify the Regional Director in writing what steps the Charged Party has taken to comply herewith. Such notification shall be given within 5 days, and again after 60 days, from the date of receipt of the Notices on official Board notice forms. In the event the Charging Party or Counsel do not enter into this Agreement, initial notice shall be given within 5 days after notification from the Regional Director that no appeal has been filed or that the Board has sustained the Administrative Law Judge. Upon notification of compliance with the terms and provisions hereof and the filing of a motion to withdraw the complaint and no motion in opposition thereto having been granted, the Administrative Law Judge shall issue an order approving the withdrawal of the complaint and amendment to complaint and heretofore issued in this case, as well as any answers filed in response. Contingent upon compliance with the terms and provisions hereof, no further action shall be taken in this case.

Charged Party CHILDREN'S LAW CENTER OF LOS ANGELES		Charging Party SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 721	
By: Name and Title  Attorney	Date 8.8.16	By: Name and Title	Date
Recommended By:  Jean Libby Counsel for the General Counsel	Date 8/8/16	Approved By:  Jeffrey Wedekind Administrative Law Judge National Labor Relations Board	Date 8/2/16

(To be printed and posted on official Board notice form)

FEDERAL LAW GIVES YOU THE RIGHT TO:

- Form, join, or assist a union;
- Choose a representative to bargain with us on your behalf;
- Act together with other employees for your benefit and protection;
- Choose not to engage in any of these protected activities.

WE WILL NOT do anything to prevent you from exercising the above rights.

Service Employees International Union, Local 721 (Union) is the employees' representative in dealing with us regarding wages, hours and other working conditions of the employees in the following unit:

Included: All full-time and regular part-time non-professional employees, including Paralegals, Investigators, Investigators II, Investigator Clerks and Secretaries employed by the Employer at its facilities located at 901 Corporate Center Drive, Monterey Park, CA; 201 Centre Plaza Drive, Monterey Park, CA; and 1040 W. Avenue J, Lancaster, CA;

Excluded: All other employees, independent contractors, confidential employees, guards and supervisors as defined in the Act.

WE WILL NOT refuse to provide the Union with information that is relevant and necessary to its role as your bargaining representative.

WE WILL NOT in any like or related manner interfere with your rights under Section 7 of the Act.

WE WILL provide the Union with the information it requested on August 31, 2015, October 16, 2015, and October 30, 2015, concerning the wage increases issued to attorneys subject to the confidentiality agreement signed by the Charged Party on August 8, 2016.

CHILDREN'S LAW CENTER OF LOS ANGELES

(Employer)

Dated:

By:

(Representative)

(Title)

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. We conduct secret-ballot elections to determine whether employees want union representation and we investigate and remedy unfair labor

practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below or you may call the Board's toll-free number 1-866-667-NLRB (1-866-667-6572). Hearing impaired persons may contact the Agency's TTY service at 1-866-315-NLRB. You may also obtain information from the Board's website: www.nlr.gov.

888 S Figueroa St Fl 9
Los Angeles, CA

Telephone: (213)894-5200

Hours of Operation: 8:30 a.m. to 5
p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the above Regional Office's Compliance Officer.

CONFIDENTIALITY AGREEMENT

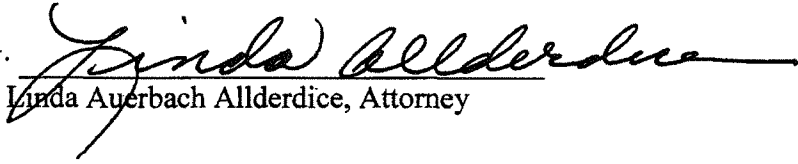
SEIU's requests for information dated August 31, 2015, October 16, 2015 and October 30, 2015 (as clarified on November 15, 2015), as set forth in the Complaint, will be responded to by CLCLA as follows:

1. CLCLA will provide responsive information per the Union's requests (dated above) with attorney names, social security numbers, dates of birth, ~~dates~~ ^{day and month} of hire, addresses, employee identification numbers and names of supervisors or directors redacted.
2. The union (up to five SEIU staff or attorney representatives at a time) shall inspect the information per No. 1, at CLCLA's offices at 901 Corporate Center Drive, Monterey Park, CA 91754, upon dates to be mutually agreed-upon.
3. Any documents provided shall not be photographed or photocopied by the Union on any device. Any individualized salary information provided shall not be disseminated or publicized in any way to any nonbargaining unit person, entity, group or other SEIU-represented bargaining unit or employer except as necessary to be disclosed in a grievance/arbitration proceeding, bargaining or NLRB proceeding.

Dated: August 8, 2016

CHILDREN'S LAW CENTER OF LOS ANGELES

BY:


Linda Auerbach Allderdice, Attorney

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**PROOF OF SERVICE
(CCP §1013)**

I am a citizen of the United States and resident of the State of California. I am employed in the County of Los Angeles, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years and not a party to the within action.

On August 15, 2016, I served the following documents in the manner described below:

**REQUEST FOR SPECIAL PERMISSION TO APPEAL AND APPEAL OF ALJ'S
RULING APPROVING SETTLEMENT AGREEMENT**

- ☒ (BY U.S. MAIL) I am personally and readily familiar with the business practice of Weinberg, Roger & Rosenfeld for collection and processing of correspondence for mailing with the United States Postal Service, and I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Postal Service at Los Angeles, California.
- ☐ BY ELECTRONIC SERVICE: By electronically mailing a true and correct copy through Weinberg, Roger & Rosenfeld's electronic mail system from lissa@unioncounsel.net to the email addresses set forth below.

On the following part(ies) in this action:

Judge Gerald Etchingham
Associate Chief Administrative Law Judge
National Labor Relations Board
901 Market Street, Suite 300
San Francisco, CA 94103-1779

Jean Libby
Counsel for the General Counsel
National Labor Relations Board
888 South Figueroa Street, 9th Floor
Los Angeles, CA 90017-5449

Judge Jeffrey Wedekind
National Labor Relations Board
901 Market Street, Suite 300
San Francisco, CA 94103-1779

Linda Auerbach Allderdice
Holland & Knight LLP
400 South Hope Street, 8th Floor
Los Angeles, CA 90071

Olivia Garcia
Regional Director
National Labor Relations Board
888 South Figueroa Street, 9th Floor
Los Angeles, CA 90017-5449

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on August 15, 2016, at Los Angeles, California.


Guadalupe Issa